

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Anthony Watson,)	
)	
Petitioner,)	Case No. 1:02-CV-828
)	
vs.)	
)	
Warden Pat Hurley,)	
)	
Respondent.)	

Order Adopting Report and Recommendation

On April 18, 2005, United States Magistrate Judge Timothy S. Black issued a Report and Recommendation in this matter. The Magistrate Judge recommended that Petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 be denied with prejudice. The Magistrate Judge further recommended that a certificate of appealability should issue only with respect to the claim asserted in Ground One of the petition and that this Court certify pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this Order would be taken in good faith.

Neither party has objected to the Report and Recommendation within the time allotted, and the Court finds that they are not plainly erroneous. Accordingly, the Report and Recommendation are hereby **ADOPTED** *in toto*. Petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 is hereby **DENIED** with prejudice. The Court hereby **CERTIFIES** the appealability of the claim asserted as Ground One in the

petition, inasmuch as reasonable jurists could debate whether that claim should have been resolved in a different manner and, alternatively, whether the issue presented in that ground is "adequate to deserve encouragement to proceed further." Miller-El v. Cockrell, 537 U.S. 322, 336 (2003) (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000) (in turn quoting Barefoot v. Estelle, 463 U.S. 880, 893 n. 4 (1983))). A certificate of appealability shall not issue with respect to the claims asserted in Grounds Two through Six of the petition because Petitioner has failed to make a substantial showing of the denial of a constitutional right remediable in this federal habeas corpus proceeding. See 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). Petitioner has not shown that reasonable jurists could debate whether these claims should have been resolved in a different manner or that the issues presented were "adequate to deserve encouragement to proceed further." Miller-El, 537 U.S. at 323-24. The Court further **CERTIFIES** that an appeal of this Order would be taken in "good faith" and, therefore, grants Petitioner leave to proceed *in forma pauperis* in any appeal from this Order upon a showing of financial necessity. See 28 U.S.C. §

1915(a)(3); Fed. R. App. P. 24(a); Kincade v. Sparkman, 117 F.3d 949, 952 (6th Cir. 1997). This action is **CLOSED**.

IT IS SO ORDERED.

_____/s/
Sandra S. Beckwith, Chief Judge
United States District Court